

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JAY S. KRAVITZ,

Plaintiff,

v.

9:17-cv-0600
(TJM/TWD)

KENNETH LEIS; JOHN/JANE DOE(S),

Defendants.

THOMAS J. McAVOY,
Senior United States District Judge

DECISION & ORDER

I. INTRODUCTION

This *pro se* action brought pursuant to 42 U.S.C. § 1983 was referred to the Hon. Thérèse W. Dancks, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). In her February 11, 2019 Report-Recommendation and Order, Magistrate Judge Dancks recommends that Plaintiff's First Amendment Free Exercise claim against Defendants John/Jane Doe(s) be dismissed without prejudice, and Defendant Leis' motion for summary judgment (Dkt. No. 21) be granted for lack of personal involvement. Dkt. No. 29, at 15. Plaintiff objects only to the recommendation to grant Defendant Leis' motion for summary judgment. Dkt. No. 30.

II. STANDARD OF REVIEW

When objections to a magistrate judge's report and recommendation are lodged, the district court makes a "*de novo* determination of those portions of the report or

specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1); *see also United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997) (The Court must make a *de novo* determination to the extent that a party makes specific objections to a magistrate's findings). "[E]ven a *pro se* party's objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate's proposal, such that no party be allowed a second bite at the apple by simply relitigating a prior argument." *DiPilato v. 7-Eleven, Inc.*, 662 F. Supp. 2d 333, 340 (S.D.N.Y. 2009)(internal quotation marks and citation omitted). When no objection is made to a portion of a report-recommendation, the Court subjects that portion of the report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*

After reviewing the report recommendation, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." 28 U.S.C. § 636(b)(1)(C).

III. DISCUSSION

a. Portion of Rep. Rec. & Ord. With No Objections

The Court finds no clear error in Magistrate Judge Dancks' recommendation to dismiss without prejudice Plaintiff's First Amendment Free Exercise claim(s) against Defendants John/Jane Doe(s). See Rep.-Rec. & Ord., at 5-7. Further, even considering

this portion of Magistrate Judge Dancks' Report-Recommendation and Order *de novo*, the Court adopts her recommendation for the reasons stated. *Id.*

b. Portion of Rep. Rec. & Ord. With Objections

Having reviewed *de novo* Defendant Leis' motion for summary judgment, and having considered Plaintiff's objections, the Court adopts the conclusions reached by Magistrate Judge Dancks at pages 7-15 of the Report-Recommendation and Order.

V. CONCLUSION

For the reasons discussed above, the Court **ACCEPTS** and **ADOPTS** Magistrate Judge Dancks' recommendations in the Report-Recommendation and Order (Dkt #29) for the reasons stated in her report. Therefore, it is hereby

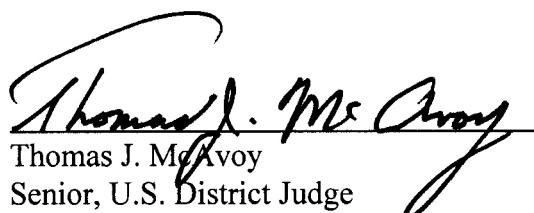
ORDERED that Plaintiff's First Amendment Free Exercise claim(s) against Defendants John/Jane Doe(s) is/are **DISMISSED without prejudice**; and it is further

ORDERED that Defendant Leis' motion for summary judgment (Dkt. No. 21) is **GRANTED** and the claims against him are **DISMISSED with prejudice**.

The Clerk of the Court may close the file in this matter.

IT IS SO ORDERED.

Dated: March 25, 2019



Thomas J. McAvoy
Senior, U.S. District Judge